

Human Services Board, Stacey Joroff, Wendy Burroughs, and Joan Bauer

Shelley Simpson, Hearing Officer

June 6, 1996

Fair Hearing No. 14,011

INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare denying him coverage for dentures under both the Medicaid and General Assistance programs.

PROPOSED FINDINGS OF FACT

1. The petitioner, who is a disabled man, lost his upper teeth in 1986 in a car accident. While he had dentures for some time, he has had none in the last eight to twelve months. He can chew only soft food and has lost about 30 pounds. When he sleeps his bottom teeth push into his upper gum and he has had cuts and bleeding there in spite of the use of night-time mouthpieces. He has had stitches in his gums on

one occasion due to his grinding.

2. In August of 1995, the petitioner applied for Medicaid coverage for dentures prescribed by his dentist. In support of his application, he provided a letter from his physician of some four years standing stating that "it is my opinion that his health is significantly compromised by his inability to eat solid food comfortably. He remains clinically malnourished and anything that compromises intake of nourishment will interfere with his health". He concluded that repair or replacement of his dental appliance would resolve that problem.

3. On September 6, 1995, the petitioner's request was denied by the Department because dentures are a "non-covered adult service".

4. Subsequently the petitioner provided further letters of support from his dentist and his psychiatrist. The dentist stated

I can certainly say that [the petitioner] needs dentures in order to chew his food. The absence of teeth can lead to many internal problems, digestive and nutritional. Vitamin, mineral, protein, etc. supplements can help ward off some of the problems. To determine if there are such problems caused by [petitioner's] edentulous condition, a medical doctor would have to be consulted.

The psychiatrist stated

In the past I have been involved in the patient's psychiatric outpatient treatment. The patient suffers from Bipolar Type II Disorder as well as features of General Anxiety Disorder which are chronic in nature. The patient reports loss of his entire upper dental work secondary to a motor vehicle accident. He reports an increase in anxiety levels and being unable to attend freely public places due to his preoccupation with worries of his physical appearance with no teeth in the upper denture area. He also has previously suffered from a poor self esteem which appears to be exacerbated by the difficulties involving his current physical attributes surrounding the above issue.

This patient has a long history of previous addiction to both prescription medication and illicit drugs. I feel increased levels of stress and anxiety would put him at risk in these two area. I would therefore support the patient's effort to obtain proper denture work or repairs to his upperjaw area to avoid unnecessary stress which could lead to exacerbation to pre-existing anxiety disorders which have contributed to his total disability.

5. On January 11, 1996, the petitioner applied for dentures under the General Assistance emergency medical program. His physician was asked why dentures were a necessity and he replied, "[a]s stated in previous letter-lack of dentures might well compromise nutritional status which is already marginal."

6. On February 7, 1996, he was denied because his income was in excess of Departmental standards and because he showed no emergency need for the dentures.

7. Subsequent to this determination, his dentist wrote another letter in support of his application in which he stated that he examined the petitioner on February 15, 1996 and concluded:

He is showing abrasions on his upper gums from chewing with only lower teeth. Also, he is

experiencing pain and clicking in his temporal-mandibular joints. These problems can only be relieved by wearing an upper denture to protect the gums and provide normal chewing ability.

In response to a request for further information from

the Department, the dentist provided the following on March

15, 1996:

. . . [petitioner] is experiencing pain and clicking in his temporal-mandibular joints that is normally associated with an edentulous condition. Dentures would provide relief from these symptoms. There are no other options. Removing the lower teeth would worsen the condition. Having upper teeth results in his "over closing" his jaw which puts strain on the TMJs. Of course, his lack of teeth limits the amount of chewing he is able to do and limits the types of food he can eat, which in turn limits the strain on the TMJ.

8. The petitioner has made considerable efforts to find some other source of payment for the dentures or to arrange a payment plan with his dentist, to no avail. His \$544 per month SSI income is consumed by his living expenses.

9. From the above it is concluded that the petitioner suffers from temporo-mandibular joint syndrome and also that he suffers from malnutrition both of which can only be treated through the provision of dentures.

RECOMMENDATION

The decision of the Department should be reversed.

REASONS

The Department's Medicaid regulations specifically provide that "treatment for temporomandibular joint dysfunction is a covered medical service for recipients of any age." M619.1. As the provision of dentures is the generally prescribed treatment for this disease, the Board has held that the provision of dentures is appropriate in this circumstance. See Fair Hearings No. 10,379, 11,207 and 11,468.

This regulation is an exception to the general rule that dentures are not provided for rehabilitative and cosmetic purposes:

Dental Services for Recipients Age 21 and older

Effective January 1, 1989, coverage of dental services is extended to recipients age 21 and older. The scope of the program includes emergency dental care for relief of pain, bleeding and infection, selected preventive and restorative procedures rendered to limit disease progression, and necessary diagnostic and consultative services.

Covered services include:

- o Oral examinations - including oral cancer screenings
- o Diagnostic care services - radiography and related testing
- o Preventive/Restorative care - limited to oral prophylaxis, root planing and scaling, amalgam and composite restorations, and placement of prefabricated crowns.
- o Endodontia - not to exceed three teeth treated per person
- o Oral surgery - all necessary surgery for tooth removal, and palliative treatment, such as abscess drainage. Third molar surgery will initially require authorization prior to treatment.

Rehabilitative, cosmetic, or elective procedures are not covered. Services not covered include:

- o Cosmetic dentistry
- o Bonding
- o Sealants
- o Periodontal surgery
- o Non-surgical, comprehensive/periodontal care
- o Orthodontia
- o Crown and bridge
- o Dentures (full and partial)
- o Elective care

Other program limits include:

- o Annual benefit maximum \$500 per person
- o Services:

limits same as in M620

- o Prior Authorization:

a complete list of procedures which require prior authorization is available from the Medicaid fiscal agent upon request.

- o Procedure Review:

all services reviewed during post-audit for appropriateness.

M621

However, the Board has held that this regulation does not bar the provision of dentures in situations where dentures are necessary to treating an otherwise covered condition. See Fair Hearing No. 12,180. The Board has specifically held that dentures can be provided to treat serious malnutrition where there is no other method available. As the petitioner has evidence of serious malnutrition, a covered condition, which the evidence shows can only be treated through the provision of solid foods, it must be concluded that the petitioner has a second ground upon which to claim coverage for his upper dentures under the Medicaid program. As the petitioner is eligible for the dentures under the Medicaid program, it is not necessary to determine whether he should have been granted under the General Assistance program.

THIS MATTER WILL BE CONSIDERED BY THE BOARD AT A MEETING IN MONTPELIER ON WEDNESDAY, JUNE 12, 1996. THE MEETING WILL BE HELD AT THE NATIONAL LIFE INSURANCE COMPANY - NORTH BUILDING (SEE ATTACHED MAP), IN THE TRANSPORTATION/MAINTENANCE CONFERENCE ROOM, 4TH FLOOR, AND WILL BEGIN AT 9:30 A.M., ALL VISITORS ARE REQUIRED TO SIGN IN AT THE FRONT DESK AS THEY COME INTO THE BUILDING. DIRECTIONS TO THE CONFERENCE ROOM WILL BE PROVIDED BY THE RECEPTIONIST AT THE FRONT DESK.